

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                       |                              |
|-----------------------|------------------------------|
| JAMES ARTHUR BIGGINS, | §                            |
|                       | § No. 682, 2010              |
| Defendant Below-      | §                            |
| Appellant,            | §                            |
|                       | §                            |
| v.                    | § Court Below—Superior Court |
|                       | § of the State of Delaware,  |
| STATE OF DELAWARE,    | § in and for Sussex County   |
|                       | § Cr. ID 9609015504          |
| Plaintiff Below-      | §                            |
| Appellee.             | §                            |

Submitted: November 30, 2010

Decided: January 27, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

**ORDER**

This 27th day of January 2011, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, James Biggins, filed this appeal from the Superior Court's denial of his motion for correction of illegal sentence. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Biggins' opening brief that his appeal is without merit. We agree and affirm.

(2) The basis for Biggins' motion for correction of illegal sentence under Superior Court Rule 35(a) was his contention that he is entitled to credit for time served in Maryland in 1996 while he was waiting to be returned to Delaware for

trial.<sup>1</sup> The function of a motion for correction of sentence under Rule 35(a) is extremely narrow.<sup>2</sup> Relief is only available when “the sentence imposed exceeds the statutorily-authorized limits, [or] violates the Double Jeopardy Clause.”<sup>3</sup> It is well-settled that credit for time served is not an appropriate basis for relief under the narrow function of Rule 35(a).<sup>4</sup> Accordingly, we find no error in the Superior Court’s denial of Biggins’ motion.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>1</sup> Biggins asserted in his Superior Court motion that he is entitled to 144 days of credit for time served in Maryland between his arrest there on September 24, 1996 until his return to Delaware on January 15, 1997 (we note that there are only 113 days between those two dates). The State contends that Biggins actually was serving a sentence for a Maryland probation violation before he was returned to Delaware.

<sup>2</sup> *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

<sup>3</sup> *Id.*

<sup>4</sup> *Fisher v. State*, 2008 WL 4216365 (Del. Sept. 16, 2008).